United Nations A/HRC/38/NGO/71

General Assembly

Distr.: General
7 June 2018

English only

Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Human Rights Association of American Minorities (IHRAAM), a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09273(E)
1809273

Please recycle

Violence Against Women - Asifa Innocence Ravaged in Indian Administered Kashmir

Introduction

The Declaration on the Elimination of Violence Against Women defines "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life." It has taken decades of struggle by the women's rights movement to persuade the international community to view gender-based violence against women as a human rights concern and not just as a private matter in which the State should not interfere.

In 1992, the CEDAW Committee in its General Recommendation No. 19, asserted that violence against women is a form of discrimination, directed towards a woman because she is a woman or that affects women disproportionately. This violence seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

The Vienna Declaration and Programme of Action recognized that the elimination of violence against women in public and private life is a human rights obligation.

The 1995 UN World Conference on Women held in Beijing reaffirmed the conclusions of the Vienna Conference, listing violence against women as one of the critical areas of concern. In 2017, the CEDAW Committee, marking 25th anniversary of its General Recommendation No. 19, further elaborated international standards on gender-based violence against women in its General Recommendation No. 35. In General Recommendation No. 35, the CEDAW Committee recognized that the prohibition of gender-based violence against women has evolved into a principle of customary international law, binding all States.

Framing gender-based violence against women as a human rights violation implies an important conceptual shift. It means recognizing that women are not exposed to violence by accident, or because of an in-born vulnerability. Instead, violence is the result of structural, deep-rooted discrimination which the state has an obligation to address. Preventing and addressing gender-based violence against women is therefore not a charitable act. It is a legal and moral obligation requiring legislative, administrative and institutional measures and reforms and the eradication of gender stereotypes which condone or perpetuate gender-based violence against women and underpin the structural inequality of women with men.

Asifa Bano – 8 Year Old Girl Case

A tragic and gruesome violence and murder occurred of a 8 year old girl in Indian Administered Kashmir.

8-year-old nomad girl Asifa Bano, daughter of Mohammed Yousaf Pujwala and Rafeeza Bano of Rasana in Hiranagar, Kathua had gone for grazing horses on 10th January 2018 at 12.30pm in a nearby forest. She was last seen alive by a local woman at 2.00pm on the same day. At 4.00pm the horses returned home alone without Asifa.

She was found a week later on 17th January 2018 from Hiranagar woods with visible torture marks on her body.

According to the Jammu & Kashmir police report, post mortem and charge-sheet, Asifa Bano was held **captive** for five days in a Hindu temple, forcibly **drugged** to keep her sedated but alive, **tortured**, **gang raped** and brutally **murdered**.

On 9th April 2018, charges under Sections 302, 376, 201 and 120-B of the Ranbir Penal Code were levied on the accused who include police officers, identified as the following:

1. 60-year-old Sanji Ram, a retired government official, is the main conspirator who incited his juvenile nephew to abduct eight-year-old Asifa. Mr Ram was in-charge of the Hindu temple where Asifa was held hostage and gang raped.

2. Sanji Ram's nephew, 15, (19 according to a DNA report, said the charge-sheet) is a school dropout who abducted, raped and strangulated the girl before bludgeoning her face with a stone.

3. Parvesh Kumar, is a friend of the juvenile nephew of Sanji Ram, who helped execute the plan and repeatedly raped the girl.

4. Vishal Jangotra is Sanji Ram's son, who studies in Meerut. He raped the girl with the juvenile who called Vishal and asked him to return to Kathua "in case he wanted to satisfy his lust".

5. Deepak Khajuria is a special police officer who wanted to rape Asifa one more time before she was killed.

6. Surinder Kumar is a Police Special Officer, who witnesses say they saw at the crime scene.

7. Police Sub-Inspector Anand Dutta and Police Head Constable Tilak Raj tried to scuttle the probe by not collecting vital evidence and washed Asifa's dress, attempting to eliminate DNA residue to help the accused.

Asifa's ordeal began on 4th January 2018, when Sanji Ram provoked his nephew to attack the nomadic Bakarwal community.

On 7th January, Sanji Ram told his nephew, a juvenile, to kidnap the daughter of Mohammed Yousaf Pujwala, Asifa, who often went to the forest behind Ram's house to graze her horses.

On 8th January 2018, the juvenile nephew of Sanji Ram shared Sanji Ram's plan of the kidnap of eight-year-old Asifa with his friend Parvez Kumar.

On 9th January 2018, the juvenile and Parvesh Kumar purchased sedative drugs to be used on Asifa.

On 10th January 2018, the juvenile saw the girl enquiring about her horses with a local lady. The juvenile approached Asifa and told her he had seen them in the jungle. He led Asifa towards the jungle, but sensing trouble, Asifa tried to flee. The juvenile stopped her by catching hold of her neck, covering her mouth with one of his hands and pushed her to the ground. Parvesh Kumar held her legs and the juvenile forcibly administered the sedatives one by one to Asifa. Asifa fell unconscious and was raped by the juvenile, followed by Parvesh Kumar attempting to rape her, but was unable to do so. They then took Asifa inside Devisthan Temple and placed her under the table over two plastic mats, covering her with cotton thread mats. Thereafter, both the juvenile and Parvesh Kumar left the temple after locking it.

On 11th January 2018, Asifa's parents went to the Devisthan temple and enquired from the caretaker, Sanji Ram, about the whereabouts of their missing daughter. Sanji Ram denied any knowledge.

On 12th January 2018, Vishal Jangotra reached Rasana from Meerut at 06:00 a.m. At about 8:30 a.m. the juvenile returned to Devisthan temple and administered three more sedative tablets to Asifa while she was unconscious and with an empty stomach. Later that day, the

Police along with the Bakarwal community began searching for Asifa while Deepak Khajuria went to the house of Sanji Ram with another police official named Iftikar Wani. Deepak Khajuria advised the juvenile to ensure regular administering of sedatives to Asifa on time. During the investigation, it transpired that Sanji Ram had already taken the accused police officials into confidence and settled a deal with them to take care of things which would ensure success of the conspired plan.

On 13th January 2018 at 8.30am, the juvenile, Vishal Jangotra and Sanji Ram and Parvesh Kumar arrived at Devisthan temple. Sanji Ram left Devisthan temple from the rear gate to meet Special Officer Deepak Khajuria who was waiting for him. During that time, Vishal Jangotra raped the sedated Asifa inside the temple, followed by the juvenile raping Asifa in presence of Parvesh Kumar.

After distributing religious food to relatives in the evening, the juvenile informed his uncle Sanji Ram that he and Vishal Jangotra had committed gang rape with Asifa inside Devisthan temple. Sanji Ram instructed the juvenile that it was time to kill Asifa and achieve the ultimate goal of criminal conspiracy hatched among the accused. On the direction of Sanji Ram at Devisthan temple, the Parvesh Kumar, Vishal Jangotra and the juvenile removed Asifa from Devisthan temple and took her to a nearby canal situated in front of Devisthan temple, where Deepak Khajuria met them.

After committing the barbaric act of rape on Asifa, Deepak Khajuria kept her neck on his left thigh and started applying force with his hands on her neck in order to kill her. As Deepak Khajuria was unsuccessful in killing her, the juvenile killed her by pressing his knees against her back and strangulated Asifa with her own scarf. The juvenile, in order to make sure that Asifa was dead, hit her twice on head with a large stone. As per the conspired plan, the dead body was to be transported and disposed of in a canal at Hiranagar, however, as a vehicle could not be arranged in time, the accused decided to dump the body at Devisthan temple.

On 15th January 2018, Sanji Ram told his nephew the juvenile and his son Vishal Jangotra to throw Asifa's dead body in the jungle as it was no longer safe to keep her inside Devisthan temple and worshipers were to visit the temple the following day for a Hindu religious festival which was to be performed by Sanji Ram himself.

Eventually, Asifa's dead body was thrown inside the jungle while Vishal Jangotra locked the temple and guarded the outside bushes. After throwing the body, they both returned to their respective homes.

On 17th January 2018 Asifa's dead body was recovered on the basis of information provided by Jagdish Raj who had discovered Asifa's dead body during the search of his missing sheep in the nearby forest. The dead body of Asifa was taken into custody by police for conducting an autopsy. The post-mortem of Asifa was conducted by a team of doctors at District Hospital Kathua on the same day at 2.30pm.

On 12th January 2018, Mohammed Yousaf Pujwala, father of eight-year-old Asifa Bano lodged a complaint in Hiranagar Police Station regarding his missing daughter. On this report case, FIR No: 10/2018U/S363RPC was registered in Hiranagar Police Station.

On 17th January 2018, the dead body of Asifa Bano was found by locals and taken immediately into custody to conduct an autopsy. The post mortem was performed in District Hospital Kathua and the report concluded that Asifa Bano was subjected to torture, rape and murder.

In pursuance to Police Headquarter Order No: 374 dated 22nd January 2018, the investigation of the case was transferred to Crime Branch and Crime Headquarters, Jammu and Kashmir.

On 9th April 2018, Crime Branch officials were physically stopped by the Bar Association of Jammu along with two ministers from the Hindu nationalist Bhartiya Janata Party (BJP), despite massive police presence, from entering the court of the Chief Judicial Magistrate in Jammu and Kashmir's Kathua district and filing a charge sheet into the gang rape and murder of Asifa Bano

On 19th April 2018, the Supreme Court condemned the actions of the Bar Association of Jammu calling their actions "wrong", observing that the lawyers had "no right to strike and obstruct" the Crime Branch from submitting the charge sheet to the court and producing the accused.

The case has become a politically driven issue and therefore there is a real possibility that Asifa Bano's case will not commence. The lawyer representing Asifa Bano and her family has therefore requested the case be moved to New Delhi, however, the Supreme Court as of now has not given the permission.

The UN Human Rights Council, its relevant mandates and the High Commissioner for Human Rights are indeed to take note of this "Asifa Innocence Ravaged" and ensure justice is delivered and reparation realized.